

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

COPPER SANDS HOMEOWNERS  
ASSOCIATION, INC., et al.,

Plaintiff(s),

vs.

COPPER SANDS REALTY, LLC, et al.,

Defendant(s).

Case No. 2:10-cv-00510-GMN-NJK

ORDER

(Docket No. 631)

On September 18, 2013, United States District Judge Gloria M. Navarro determined that Magistrate Judge Johnston “failed to apply controlling case law from the Nevada Supreme Court” in granting Defendant’s motion to set aside Plaintiffs’ privilege assertions. *See* Docket No. 623. In particular, Judge Navarro determined that the controlling case law on the issue of an “at-issue waiver” of the attorney-client privilege is *Wardleigh v. Second Judicial District Court*, 891 P.2d 1180 (Nev. 1995). Judge Navarro granted Plaintiffs’ objections to Judge Johnston’s order and referred the issue to the undersigned for reconsideration of Defendant’s Motion to set aside Plaintiffs’ assertion of privilege in light of the standard announced in *Wardleigh*.

The undersigned then held a status conference to discuss, *inter alia*, the most efficient manner for reconsidering Defendant’s motion to set aside in light of the order from Judge Navarro. The Court ordered the parties to re-brief the motion. To the extent that it was unclear, the Court’s intent was for the parties to present the relevant standards and arguments in one set of briefing based on controlling case law. The Court now has before it the supplemental briefing. *See* Docket Nos. 631, 638, 639. Unfortunately, it appears that Plaintiffs’ brief addresses only the “recent arguments

1 made by Cannon.” *See* Docket No. 638 at 2-3. As such, it appears that Plaintiffs rely on arguments  
2 made in previous briefing to Judges Navarro and Johnston that are not explicitly addressed in the  
3 pending briefing. The Court declines to review several sets of previous briefs in an attempt to  
4 decipher Plaintiffs’ arguments, especially since Plaintiffs’ briefing to Judge Johnston did not discuss  
5 or cite *Wardleigh*. *See* Docket No. 564.

6 In light of the above, the Court hereby orders as follows:

7 (1) Defendant shall file a renewed motion to set aside Plaintiffs’ assertion of privilege, no  
8 later than October 24, 2013;

9 (2) Plaintiffs shall file a response to that renewed motion, no later than October 29, 2013;  
10 and

11 (3) Defendant shall file a reply, no later than November 1, 2013.

12 This briefing shall be comprehensive of all of the issues currently before the Court for its  
13 consideration. The briefing shall not rely on prior briefing to Judges Navarro or Johnston, but  
14 instead it shall explicitly detail all arguments the parties deem germane for the undersigned’s  
15 consideration, citation and discussion of the relevant case law, and citation, discussion and  
16 attachment of any support from the record.

17 To the extent Defendant’s opening brief (Docket No. 631) constitutes a renewed motion to  
18 set aside Plaintiffs’ assertion of privilege, it is hereby **DENIED** without prejudice.

19 IT IS SO ORDERED.

20 DATED: October 21, 2013

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24 NANCY J. KOPPE  
25 United States Magistrate Judge  
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